

shall be made on Form I-485. The application date of the I-485 shall be the date of acceptance by the Service as properly filed. If the application date is other than the fee receipt date it must be noted and initialed by a Service officer. The date of application for adjustment of status is the closing date for computing the residence and physical presence requirement. The applicant must have complied with all requirements as of the date of application.

(b) *Documentation.* All documents must be submitted in accordance with §103.2(b) of this chapter. The application shall be accompanied by documentary evidence establishing the aggregate residence and physical presence required. Documentary evidence may include official employment verification, records of official or personnel transactions or recordings of events occurring during the period of claimed residence and physical presence. Affidavits of credible witnesses may also be accepted. Persons unable to furnish evidence in their own names may furnish evidence in the names of parents or other persons with whom they have been living, if affidavits of the parents or other persons are submitted attesting to the claimed residence and physical presence. The claimed family relationship to the principle G-4 international organization officer or employee must be substantiated by the submission of verifiable civil documents.

(c) *Residence and physical presence requirements.* All applicants applying under sections 101(a)(27)(I) (i), (ii), and (iii) of the INA must have resided and been physically present in the United States for a designated period of time.

For purposes of this section only, an absence from the United States to conduct official business on behalf of the employing organization, or approved customary leave shall not be subtracted from the aggregated period of required residence or physical presence for the current or former G-4 officer or employee or the accompanying spouse and unmarried sons or daughters of such officer or employee, provided residence in the United States is maintained during such absences, and the duty station of the principle G-4 nonimmigrant continues to be in the

United States. Absence from the United States by the G-4 spouse or unmarried son or daughter without the principle G-4 shall not be subtracted from the aggregate period of residence and physical presence if on customary leave as recognized by the international organization employer. Absence by the unmarried son or daughter while enrolled in a school outside the United States will not be counted toward the physical presence requirement.

(d) *Maintenance of nonimmigrant status.* Section 101(a)(27)(I) (i), and (ii) requires the applicant to accrue the required period of residence and physical presence in the United States while maintaining status as a G-4 or N nonimmigrant. Section 101(a)(27)(I)(iii) requires such time accrued only in G-4 nonimmigrant status.

Maintaining G-4 status for this purpose is defined as maintaining qualified employment with a "G" international organization or maintaining the qualifying family relationship with the G-4 international organization officer or employee. Maintaining status as an N nonimmigrant for this purpose requires the qualifying family relationship to remain in effect. Unauthorized employment will not remove an otherwise eligible alien from G-4 status for residence and physical presence requirements, provided the qualifying G-4 status is maintained.

[54 FR 5927, Feb. 7, 1989]

## PART 1103—APPEALS, RECORDS, AND FEES

Sec.

1103.3 Denials, appeals, and precedent decisions.

1103.4 Certifications.

1103.7 Fees.

AUTHORITY: 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; 28 U.S.C. 509, 510.

SOURCE: 40 FR 44481, Sept. 26, 1975, unless otherwise noted. Duplicated from part 103 at 68 FR 9833, Feb. 28, 2003.

EDITORIAL NOTE: Nomenclature changes to part 1103 appear at 68 FR 9846, Feb. 28, 2003, and at 68 FR 10351, Mar. 5, 2003.

**§ 1103.3 Denials, appeals, and precedent decisions.**

(a) *Denials and appeals*—(1) *General*—(i) *Denial of application or petition*. When a Service officer denies an application or petition filed under § 103.2 of this part, the officer shall explain in writing the specific reasons for denial. If Form I-292 (a denial form including notification of the right of appeal) is used to notify the applicant or petitioner, the duplicate of Form I-292 constitutes the denial order.

(ii) *Appealable decisions*. Certain unfavorable decisions on applications, petitions, and other types of cases may be appealed. Decisions under the appellate jurisdiction of the Board of Immigration Appeals (Board) are listed in § 1003.1(b) of this chapter. Decisions under the appellate jurisdiction of the Associate Commissioner, Examinations, are listed in § 1103.1(f)(2) of this part.

(iii) *Appeal*—(A) *Jurisdiction*. When an unfavorable decision may be appealed, the official making the decision shall state the appellate jurisdiction and shall furnish the appropriate appeal form.

(B) *Meaning of affected party*. For purposes of this section and §§ 1103.4 of this part and 103.5 of 8 CFR chapter I, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition. An affected party may be represented by an attorney or representative in accordance with part 1292 of this chapter.

(C) *Record of proceeding*. An appeal and any cross-appeal or briefs become part of the record of proceeding.

(D) *Appeal filed by Service officer in case within jurisdiction of Board*. If an appeal is filed by a Service officer, a copy must be served on the affected party.

(iv) *Function of Administrative Appeals Unit (AAU)*. The AAU is the appellate body which considers cases under the appellate jurisdiction of the Associate Commissioner, Examinations.

(v) *Summary dismissal*. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of

law or statement of fact for the appeal. The filing by an attorney or representative accredited under 8 CFR 1292.2(d) of an appeal which is summarily dismissed under this section may constitute frivolous behavior as defined in 8 CFR 1292.3(a)(15). Summary dismissal of an appeal under § 1103.3(a)(1)(v) in no way limits the other grounds and procedures for disciplinary action against attorneys or representatives provided in 8 CFR 1292.2 or in any other statute or regulation.

(2) *AAU appeals in other than special agricultural worker and legalization cases*—(i) *Filing appeal*. The affected party shall file an appeal on Form I-290B. Except as otherwise provided in this chapter, the affected party must pay the fee required by § 1103.7 of this part. The affected party shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision.

(ii) *Reviewing official*. The official who made the unfavorable decision being appealed shall review the appeal unless the affected party moves to a new jurisdiction. In that instance, the official who has jurisdiction over such a proceeding in that geographic location shall review it.

(iii) *Favorable action instead of forwarding appeal to AAU*. The reviewing official shall decide whether or not favorable action is warranted. Within 45 days of receipt of the appeal, the reviewing official may treat the appeal as a motion to reopen or reconsider and take favorable action. However, that official is not precluded from reopening a proceeding or reconsidering a decision on his or her own motion under § 103.5(a)(5)(i) of 8 CFR chapter I in order to make a new decision favorable to the affected party after 45 days of receipt of the appeal.

(iv) *Forwarding appeal to AAU*. If the reviewing official will not be taking favorable action or decides favorable action is not warranted, that official shall promptly forward the appeal and the related record of proceeding to the AAU in Washington, DC.

(v) *Improperly filed appeal*—(A) *Appeal filed by person or entity not entitled to file it*—(1) *Rejection without refund of filing fee*. An appeal filed by a person or

entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

(2) *Appeal by attorney or representative without proper Form G-28—(i) General.* If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed. In such a case, any filing fee the Service has accepted will not be refunded regardless of the action taken.

(ii) *When favorable action warranted.* If the reviewing official decides favorable action is warranted with respect to an otherwise properly filed appeal, that official shall ask the attorney or representative to submit Form G-28 to the official's office within 15 days of the request. If Form G-28 is not submitted within the time allowed, the official may, on his or her own motion, under § 103.5(a)(5)(i) of 8 CFR chapter I, make a new decision favorable to the affected party without notifying the attorney or representative.

(iii) *When favorable action not warranted.* If the reviewing official decides favorable action is not warranted with respect to an otherwise properly filed appeal, that official shall ask the attorney or representative to submit Form G-28 directly to the AAU. The official shall also forward the appeal and the relating record of proceeding to the AAU. The appeal may be considered properly filed as of its original filing date if the attorney or representative submits a properly executed Form G-28 entitling that person to file the appeal.

(B) *Untimely appeal—(1) Rejection without refund of filing fee.* An appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

(2) *Untimely appeal treated as motion.* If an untimely appeal meets the requirements of a motion to reopen as described in § 103.5(a)(2) of this part or a motion to reconsider as described in § 103.5(a)(3) of this part, the appeal must be treated as a motion, and a decision must be made on the merits of the case.

(vi) *Brief.* The affected party may submit a brief with Form I-290B.

(vii) *Additional time to submit a brief.* The affected party may make a written request to the AAU for additional time to submit a brief. The AAU may, for good cause shown, allow the affected party additional time to submit one.

(viii) *Where to submit supporting brief if additional time is granted.* If the AAU grants additional time, the affected party shall submit the brief directly to the AAU.

(ix) *Withdrawal of appeal.* The affected party may withdraw the appeal, in writing, before a decision is made.

(x) *Decision on appeal.* The decision must be in writing. A copy of the decision must be served on the affected party and the attorney or representative of record, if any.

(3) *Denials and appeals of special agricultural worker and legalization applications and termination of lawful temporary resident status under sections 210 and 245A.* (i) Whenever an application for legalization or special agricultural worker status is denied or the status of a lawful temporary resident is terminated, the alien shall be given written notice setting forth the specific reasons for the denial on Form I-692, Notice of Denial. Form I-692 shall also contain advice to the applicant that he or she may appeal the decision and that such appeal must be taken within 30 days after service of the notification of decision accompanied by any additional new evidence, and a supporting brief if desired. The Form I-692 shall additionally provide a notice to the alien that if he or she fails to file an appeal from the decision, the Form I-692 will serve as a final notice of ineligibility.

(ii) Form I-694, Notice of Appeal, in triplicate, shall be used to file the appeal, and must be accompanied by the appropriate fee. Form I-694 shall be furnished with the notice of denial at the time of service on the alien.

(iii) Upon receipt of an appeal, the administrative record will be forwarded to the Administrative Appeals Unit as provided by § 103.1(f)(2) of this part for review and decision. The decision on the appeal shall be in writing, and if the appeal is dismissed, shall include a final notice of ineligibility. A

copy of the decision shall be served upon the applicant and his or her attorney or representative of record. No further administrative appeal shall lie from this decision, nor may the application be filed or reopened before an immigration judge or the Board of Immigration Appeals during exclusion or deportation proceedings.

(iv) Any appeal which is filed that:

(A) Fails to state the reason for appeal;

(B) Is filed solely on the basis of a denial for failure to file the application for adjustment of status under section 210 or 245A in a timely manner; or

(C) Is patently frivolous; will be summarily dismissed. An appeal received after the thirty (30) day period has tolled will not be accepted for processing.

(4) *Denials and appeal of Replenishment Agricultural Worker petitions and waivers and termination of lawful temporary resident status under section 210A.*

(i) Whenever a petition for Replenishment Agricultural Worker status, or a request for a waiver incident to such filing, is denied in accordance with the provisions of part 210a of this title, the alien shall be given written notice setting forth the specific reasons for the denial on Form I-692, Notice of Denial. Form I-692 shall also contain advice to the alien that he or she may appeal the decision and that such appeal must be taken within thirty (30) days after service of the notification of decision accompanied by any additional new evidence, and a supporting brief if desired. The Form I-692 shall additionally provide a notice to the alien that if he or she fails to file an appeal from the decision, the Form I-692 shall serve as a final notice of ineligibility.

(ii) Form I-694, Notice of Appeal, in triplicate, shall be used to file the appeal, and must be accompanied by the appropriate fee. Form I-694 shall be furnished with the notice of denial at the time of service on the alien.

(iii) Upon receipt of an appeal, the administrative record will be forwarded to the Administrative Appeals Unit as provided by §103.1(f)(2) of this part for review and decision. The decision on the appeal shall be in writing, and if the appeal is dismissed, shall include a final notice of ineligibility. A

copy of the decision shall be served upon the petitioner and his or her attorney or representative of record. No further administrative appeal shall lie from this decision, nor may the petition be filed or reopened before an immigration judge or the Board of Immigration Appeals during exclusion or deportation proceedings.

(iv) Any appeal which is filed that: Fails to state the reason for the appeal; is filed solely on the basis of a denial for failure to file the petition for adjustment of status under part 210a of this title in a timely manner; or is patently frivolous, will be summarily dismissed. An appeal received after the thirty (30) day period has tolled will not be accepted for processing.

(b) *Oral argument regarding appeal before AAU—(1) Request.* If the affected party desires oral argument, the affected party must explain in writing specifically why oral argument is necessary. For such a request to be considered, it must be submitted within the time allowed for meeting other requirements.

(2) *Decision about oral argument.* The Service has sole authority to grant or deny a request for oral argument. Upon approval of a request for oral argument, the AAU shall set the time, date, place, and conditions of oral argument.

(c) *Service precedent decisions.* The Secretary of Homeland Security, or specific officials of the Department of Homeland Security designated by the Secretary with the concurrence of the Attorney General, may file with the Attorney General decisions relating to the administration of the immigration laws of the United States for publication as precedent in future proceedings, and upon approval of the Attorney General as to the lawfulness of such decision, the Director of the Executive Office for Immigration Review shall cause such decisions to be published in the same manner as decisions of the Board and the Attorney General. In addition to Attorney General and Board decisions referred to in §1003.1(g) of chapter V, designated Service decisions are to serve as precedents in all proceedings involving the same issue(s). Except as these decisions may be modified or overruled by later precedent decisions, they are binding on all Service

employees in the administration of the Act. Precedent decisions must be published and made available to the public as described in § 103.9(a) of this part.

[31 FR 3062, Feb. 24, 1966, as amended at 37 FR 927, Jan. 21, 1972; 48 FR 36441, Aug. 11, 1983; 49 FR 7355, Feb. 29, 1984; 52 FR 16192, May 1, 1987; 54 FR 29881, July 17, 1989; 55 FR 20769, 20775, May 21, 1990; 55 FR 23345, June 7, 1990; 57 FR 11573, Apr. 6, 1992; 68 FR 9832, Feb. 28, 2003]

#### § 1103.4 Certifications.

(a) *Certification of other than special agricultural worker and legalization cases*—(1) *General*. The Commissioner or the Commissioner's delegate may direct that any case or class of cases be certified to another Service official for decision. In addition, regional commissioners, regional service center directors, district directors, officers in charge in districts 33 (Bangkok, Thailand), 35 (Mexico City, Mexico), and 37 (Rome, Italy), and the Director, National Fines Office, may certify their decisions to the appropriate appellate authority (as designated in this chapter) when the case involves an unusually complex or novel issue of law or fact.

(2) *Notice to affected party*. When a case is certified to a Service officer, the official certifying the case shall notify the affected party using a Notice of Certification (Form I-290C). The affected party may submit a brief to the officer to whom the case is certified within 30 days after service of the notice. If the affected party does not wish to submit a brief, the affected party may waive the 30-day period.

(3) *Favorable action*. The Service officer to whom a case is certified may suspend the 30-day period for submission of a brief if that officer takes action favorable to the affected party.

(4) *Initial decision*. A case within the appellate jurisdiction of the Associate Commissioner, Examinations, or for which there is no appeal procedure may be certified only after an initial decision is made.

(5) *Certification to AAU*. A case described in paragraph (a)(4) of this section may be certified to the AAU.

(6) *Appeal to Board*. In a case within the Board's appellate jurisdiction, an unfavorable decision of the Service of-

ficial to whom the case is certified (whether made initially or upon review) is the decision which may be appealed to the Board under § 1003.1(b) of this chapter.

(7) *Other applicable provisions*. The provisions of § 1103.3(a)(2)(x) of this part also apply to decisions on certified cases. The provisions of § 1103.3(b) of this part also apply to requests for oral argument regarding certified cases considered by the AAU.

(b) *Certification of denials of special agricultural worker and legalization applications*. The Regional Processing Facility director or the district director may, in accordance with paragraph (a) of this section, certify a decision to the Associate Commissioner, Examinations (Administrative Appeals Unit) (the appellate authority designated in § 103.1(f)(2)) of this part, when the case involves an unusually complex or novel question of law or fact.

[52 FR 661, Jan. 8, 1987, as amended at 53 FR 43985, Oct. 31, 1988; 55 FR 20770, May 21, 1990]

#### § 1103.7 Fees.

(a) *Remittances*. (1) Fees prescribed within the framework of 31 U.S.C. 483a shall be submitted with any formal application or petition prescribed in this chapter and shall be in the amount prescribed by law or regulation. Except for fees remitted directly to the Board pursuant to the provisions of § 3.8(a) of this chapter, any fee relating to any Executive Office for Immigration Review proceeding shall be paid to, and accepted by, any Service office authorized to accept fees. Payment of any fee under this section does not constitute filing of the document with the Board or with the Immigration Court. The Service shall return to the payer, at the time of payment, a receipt for any fee paid. The Service shall also return to the payer any documents, submitted with the fee, relating to any Immigration Judge proceeding. A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn. Remittances must be drawn on a bank or other institution located in the United States and be payable in United States currency. Fees in the form of postage stamps shall not be accepted. Remittances to the Service shall be made

payable to the "Immigration and Naturalization Service," except that in case of applicants residing in the Virgin Islands of the United States, the remittances shall be made payable to the "Commissioner of Finance of the Virgin Islands" and, in the case of applicants residing in Guam, the remittances shall be made payable to the "Treasurer, Guam." If application to the Service is submitted from outside the United States, remittance may be made by bank international money order or foreign draft drawn on a financial institution in the United States and payable to the Immigration and Naturalization Service in United States currency. Remittances to the Board shall be made payable to the "United States Department of Justice."

(2) A charge of \$30.00 will be imposed if a check in payment of a fee, fine, penalty, and/or any other matter is not honored by the bank or financial institution on which it is drawn. A receipt issued by a Service officer for any such remittance shall not be binding upon the Service if the remittance is found uncollectible. Furthermore, credit for meeting legal and statutory deadlines will not be deemed to have been met if payment is not made within 10 business days after notification by the Service of the dishonored check.

(b) *Amounts of fees.* (1) The following fees and charges are prescribed:

For certification of true copies, each—\$2.00

For attestation under seal—\$2.00

For fingerprinting by the Service. A service fee of \$50 will be charged by the Service for any individual who is required to be fingerprinted in connection with an application or petition for certain immigration and naturalization benefits (other than asylum), and whose residence is in the United States as defined in section 101(a)(38) of the Act.

DCL System Costs Fee. For use of a Dedicated Commuter Lane (DCL) located at specific Ports of Entry of the United States by an approved participant in a designated vehicle—\$80.00, with the maximum amount of \$160.00 payable by a family (husband, wife, and minor children under 18 years-of-age). Payable following approval of the application but before use of the DCL by each participant. This fee is non-refundable, but may be waived by the district director. If a participant wishes to enroll more than one vehicle for use in the

PORTPASS system, he or she will be assessed with an additional fee of—\$42 for each additional vehicle enrolled.

Form EOIR-40. For filing application for suspension of deportation under section 244 of the Act as it existed prior to April 1, 1997—\$100.00. (A single fee of \$100.00 will be charged whenever suspension of deportation applications are filed by two or more aliens in the same proceeding).

Form EOIR-42. For filing application for cancellation of removal under section 240A of the Act—\$100.00. (A single fee of \$100.00 will be charged whenever cancellation of removal applications are filed by two or more aliens in the same proceedings).

Form I-17. For filing a petition for school approval or recertification—\$580 plus \$350 per additional campus listed on Form I-17B.

Form I-68. For application for issuance of the Canadian Border Boat Landing Permit under section 235 of the Act—\$16.00. The maximum amount payable by a family (husband, wife, unmarried children under 21 years of age, parents of either husband or wife) shall be \$32.00.

Form I-90. For filing an application for a Permanent Resident Card (Form I-551) in lieu of an obsolete card or in lieu of one lost, mutilated, or destroyed, or for a change in name—\$130.

Form I-94. For issuance of Arrival/Departure Record at a land border Port-of-Entry—\$6.00.

Form I-94W. For issuance of Nonimmigrant Visa Waiver Arrival/Departure Form at a land border Port-of-Entry under section 217 of the Act—\$6.00.

Form I-102. For filing a petition for an application (Form I-102) for Arrival/Departure Record (Form I-94) or Crewman's Landing (Form I-95), in lieu of one lost, mutilated, or destroyed—\$100.

Form I-129. For filing a petition for a non-immigrant worker, a base fee of \$130. For filing an H-1B petition a base fee of \$130 plus an additional \$1,000 fee in a single remittance of \$1,130. The remittance may be in the form of one or two checks (one in the amount of \$1,000 and the other in the amount of \$130). Payment of this additional \$1,000 fee is not waivable under § 1103.7(c)(1). Payment of this additional \$1,000 fee is not required if an organization is exempt under § 214.2(h)(19)(iii) of this chapter, and this additional \$1,000 fee also does not apply to certain filings by any employer as provided in § 214.2(h)(19)(v) of this chapter.

Form I-129F. For filing a petition to classify nonimmigrant as fiancée or fiancé under section 214(d) of the Act—\$110.

Form I-130. For filing a petition to classify status of alien relative for issuance of immigrant visa under section 204(a) of the Act—\$130.

## Executive Office for Immigration Review, Justice

## § 1103.7

- Form I-131. For filing an application for travel documents—\$110.
- Form I-140. For filing a petition to classify preference status of an alien on the basis of profession or occupation under section 204(a) of the Act—\$135.
- Form I-191. For filing applications for discretionary relief under section 212(c) of the Act—\$195.
- Form I-192. For filing an application for discretionary relief under section 212(d)(3) of the Act, except in an emergency case, or where the approval of the application is in the interest of the United States Government—\$195.
- Form I-193. For filing an application for waiver of passport and/or visa—\$195.
- Form I-212. For filing an application for permission to reapply for an excluded, deported or removed alien, an alien who has fallen into distress, an alien who has been removed as an alien enemy, or an alien who has been removed at Government expense in lieu of deportation—\$195.
- Form I-246. For filing application for stay of deportation under part 243 of this chapter—\$155.00
- Form I-290A. For filing appeal from any decision under the immigration laws in any type of proceedings (except a bond decision) over which the Board of Immigration Appeals has appellate jurisdiction in accordance with § 3.1(b) of this chapter. (The fee of \$110 will be charged whenever an appeal is filed by or on behalf of two or more aliens and the aliens are covered by one decision)—\$110.00
- Form I-290B. For filing an appeal from any decision under the immigration laws in any type of proceeding over which the Board of Immigration Appeals does not have appellate jurisdiction. (The fee of \$50 will be charged whenever an appeal is filed by or on behalf of two or more aliens and the aliens are covered by one decision)—\$110.00
- Form I-360. For filing a petition for an Amerasian, Widow(er), or Special Immigrant—\$130.00, except there is no fee for a petition seeking classification as an Amerasian.
- Form I-485. For filing an application for permanent resident status or creation of a record of lawful permanent residence—\$255 for an applicant 14 years of age or older—\$160 for an applicant under the age of 14 years; no fee for an applicant filing as a refugee under section 209(a) of the Act.
- Supplement A to Form I-485. Supplement to Form I-485 for persons seeking to adjust status under the provisions of section 245(i) of the Act—\$1000, except that payment of this additional sum is not required when the applicant is an unmarried child who is less than 17 years of age, or when the applicant is the spouse or the unmarried child less than 21 years of age of a legalized alien and is qualified for and has applied for voluntary departure under the family unity program.
- Form I-506. For filing an application for change of nonimmigrant classification under section 248 of the Act—\$85.00.
- Form I-526. For filing a petition for an alien entrepreneur—\$400.
- Form I-539. For filing an application to extend or change nonimmigrant status—\$140.
- Form I-570. For filing application for issuance or extension of refugee travel document—\$45.00
- Form I-600. For filing a petition to classify an orphan as an immediate relative for issuance of immigrant visa under section 204(a) of the Act. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)—\$460
- Form I-600A. For filing an application for advance processing of orphan petition. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)—\$460.
- Form I-601. For filing an application for waiver of ground of inadmissibility under section 212(h) or (i) of the Act. (Only a single application and fee shall be required when the alien is applying simultaneously for a waiver under both those subsections.)—\$195.
- Form I-612. For filing an application for waiver of the foreign-residence requirement under section 212(e) of the Act—\$195.
- Form I-687. For filing application for status as a temporary resident under section 245A (a) of the Immigration and Nationality Act as amended—to be remitted in the form of a cashier's check, certified bank check or money order. A fee of one hundred and eighty-five dollars (\$185.00) for each application or fifty dollars (\$50.00) for each application for a minor child (under 18 years of age) is required at the time of filing with the Immigration and Naturalization Service. The maximum amount payable by a family (husband, wife, and any minor children) shall be four hundred and twenty dollars (\$420.00).
- Form I-690. For filing application for waiver for ground of excludability under section 212(a) of the Act as amended, in conjunction with the application under sections 210 or 245A of the Act, or a petition under § 210A. A fee of thirty-five dollars (\$35.00) is to be remitted in the form of a cashier's check, certified bank check or money order.
- Form I-694. For appealing the denial of application under sections 210 or 245A of the Act, or a petition under § 210A. A fee of fifty dollars (\$50.00) is to be remitted in the form of a cashier's check, certified bank check or money order.

Form I-695. For filing application for replacement of temporary resident card (Form I-688) to be remitted in the form of a cashier's check, certified bank check or a money order—\$15.00

Form I-698. For filing application for adjustment from temporary resident status to that of lawful permanent resident under section 245A(b)(1) of the Act, as amended—to be remitted in the form of a cashier's check, certified bank check or money order. For applicants filing within thirty-one months from the date of adjustment to temporary resident status, a fee of eighty dollars (\$80.00) for each application is required at the time of filing with the Immigration and Naturalization Service. The maximum amount payable by a family (husband, wife, and any minor children under 18 years of age living at home) shall be two hundred and forty dollars—(\$240.00). For applicants filing after thirty-one months from the date of approval of temporary resident status, who file their applications on or after July 9, 1991, a fee of \$120.00 (a maximum of \$360.00 per family) is required. The adjustment date is the date of filing of the application for permanent residence or the applicant's eligibility date, whichever is later.

Form I-700. For filing application for status as a temporary resident under section 210(a)(1) of the Act, as amended—to be remitted in the form of a cashier's check, certified bank check or a money order. A fee of one hundred and eighty-five dollars (\$185.00) for each application or fifty dollars (\$50.00) for each application for a minor child (under 18 years of age) is required at the time of filing with the Immigration and Naturalization Service. The maximum amount payable by a family (husband, wife, and any minor children) shall be four hundred and twenty dollars (\$420.00).

Form I-751. For filing a petition to remove the conditions on residence, based on marriage—\$145.

Form I-765. For filing an application for employment authorization pursuant to 8 CFR 274a.13—\$120.

Form I-805. For filing a petition for status as a temporary resident under §210A. A fee of one hundred and seventy-five dollars (\$175.00) for each petition, is to be remitted in the form of a cashier's check, certified bank check or money order at the time of filing with the Immigration and Naturalization Service.

Form I-807. For filing a request for consideration as a replenishment agricultural worker (RAW) during an announced period of registration under 8 CFR 210a.3. A fee of ten dollars (\$10.00) is to be remitted in the form of a cashier's check, certified bank check or money order at the time of mail-

ing to the Immigration and Naturalization Service.

Form I-817. For filing an application for voluntary departure under the Family Unity Program—\$140.

Form I-821. For filing an initial application for Temporary Protected Status under section 244 of the Act as amended by section 308(a)(7) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by the Immigration Act of 1990, to be remitted in the form of a cashier's check, certified bank check, or money order. The exact amount of the fee, not to exceed fifty dollars (\$50.00), will be determined at the time a foreign state is designated for Temporary Protected Status.

Form I-823. For application to a PORTPASS program under section 286 of the Act—\$25.00, with the maximum amount of \$50.00 payable by a family (husband, wife, and minor children under 18 years of age). The application fee may be waived by the district director. If fingerprints are required, the inspector will inform the applicant of the current Federal Bureau of Investigation fee for conducting fingerprint checks prior to accepting the application fee. Both the application fee (if not waived) and the fingerprint fee must be paid to the Immigration and Naturalization Service before the application will be processed. The fingerprint fee may not be waived. For replacement of PORTPASS documentation during the participation period—\$25.00.

Form I-824. For filing for action on an approved application or petition—\$140.

Form I-829. For filing a petition by entrepreneur to remove conditions—\$395.

Form I-881. For filing an application for suspension of deportation or special rule cancellation of removal (pursuant to section 203 of Public Law 105-100):

- \$215 for adjudication by the Service, except that the maximum amount payable by family members (related as husband, wife, unmarried child under 21, unmarried son, or unmarried daughter) who submit applications at the same time shall be \$430.

- \$100 for adjudication by the Immigration Court (a single fee of \$100 will be charged whenever applications are filed by two or more aliens in the same proceedings). The \$100 fee is not required if the Form I-881 is referred to the Immigration Court by the Service.

Form I-907. For filing a request for Premium Processing Service for certain employment based applications and petitions—\$1,000. The fee for Premium Processing Service may not be waived.

Form I-914. For filing an application to classify an alien as a nonimmigrant under section 101(a)(15)(T) of the Act (victims of a severe form of trafficking in persons and their immediate family members)—\$200.



## Executive Office for Immigration Review, Justice

## § 1103.7

For each immediate family member included on the same application, an additional fee of \$50 per person, up to a maximum amount payable per application of \$400.

Form N-300. For filing an application for declaration of intention—\$60.00.

Form N-336. For filing a request for hearing on a decision in naturalization proceedings under section 366 of the Act—\$195.00.

Form N-400. For filing an application for naturalization—\$260.

Form N-410. For filing motion for amendment of petition for naturalization when motion is for the convenience of the petitioner—\$50.00

Form N-455. For filing application for transfer of petition for naturalization under section 335(i) of the Act, except when transfer is of a petition for naturalization filed under the Act of October 24, 1968, Pub. L. 90-633—\$90.00.

Form N-470. For filing an application for section 316(b) or 317 of the Act benefits—\$95.00.

Form N-565. For filing an application for a certificate of naturalization or declaration of intention in lieu of a certificate or declaration alleged to have been lost, mutilated, or destroyed; for a certificate of citizenship in a changed name under section 343(c) of the Act; or for a special certificate of naturalization to obtain recognition as a citizen of the United States by a foreign state under section 343(b) of the Act—\$155.

Form N-600. For filing an application for a certificate of citizenship under section 309(c) or section 341 of the Act—\$185.

Form N-643. For filing an application for a certificate of citizenship on behalf of an adopted child—\$145.

Form N-644. For filing an application for posthumous citizenship—\$80.

Motion. For filing a motion to reopen or reconsider any decision under the immigration laws in any type of proceeding over which the Board of Immigration Appeals has appellate jurisdiction. No fee shall be charged for a motion to reopen or reconsider a decision on an application for relief for which no fee is chargeable, for any motion to reopen or reconsider made concurrently with any initial application for relief under the immigration laws for which no fee is chargeable, or for a motion to reopen a deportation or removal order entered in absentia if that motion is filed pursuant to 8 U.S.C. 1252b(c)(3)(B) as it existed prior to April 1, 1997, or section 240b(5)(C)(ii) of the Immigration and Nationality Act, as amended. (The fee of \$110 shall be charged whenever an appeal or motion is filed by or on behalf of two or more aliens and all such aliens are covered by one decision. When a motion to reopen or reconsider is made concurrently with any application for relief under the immigration laws for which a fee is chargeable, the

fee of \$110 will be charged when the motion is filed and, if the motion is granted, the requisite fee for filing the application for relief will be charged and must be paid within the time specified in order to complete the application.)—\$110.

Motion. For filing a motion to reopen or reconsider any decision under the immigration laws in any type of proceeding over which the Board of Immigration Appeals does not have appellate jurisdiction. No fee shall be charged for a motion to reopen or reconsider a decision on an application for relief for which no fee is chargeable or for any motion to reopen or reconsider made concurrently with any initial application for relief under the immigration laws for which no fee is chargeable. (The fee of \$110 shall be charged whenever an appeal or motion is filed by or on behalf of two or more aliens and all such aliens are covered by one decision. When a motion to reopen or reconsider is made concurrently with any application for relief under the immigration laws for which a fee is chargeable, the fee of \$110 will be charged when the motion is filed and, if the motion is granted, the requisite fee for filing the application for relief will be charged and must be paid within the time specified in order to complete the application.)—\$110.

Request. For special statistical tabulations a charge will be made to cover the cost of the work involved—Cost

Request. For set of monthly, semiannual, or annual tables entitled "Passenger Travel Reports via Sea and Air"<sup>1</sup>—\$7.00

Request. For classification of a citizen of Canada to be engaged in business activities at a professional level pursuant to section 214(e) of the Act (Chapter 16 of the North American Free Trade Agreement)—\$50.00

Request. For requesting authorization for parole of an alien into the United States—\$65.00.

(2) Fees for production or disclosure of records under 5 U.S.C. 552 shall be charged in accordance with the regulations of the Department of Justice, 28 CFR 16.10.

(c)(1) Except as otherwise provided in this paragraph (c) and in §1003.3(b) of this chapter, any of the fees prescribed in paragraph (b) of this section relating to applications, petitions, appeals, motions, or requests may be waived by the

<sup>1</sup>Available from Immigration & Naturalization Service for years 1975 and before. Later editions are available from the United States Department of Transportation, contact: United States Department of Transportation, Transportation Systems Center, Kendall Square, Cambridge, MA 02142.

Immigration Judge in any case under his/her jurisdiction in which the alien or other party affected is able to substantiate that he or she is unable to pay the prescribed fee. The person seeking a fee waiver must file his or her affidavit, or unsworn declaration made pursuant to 28 U.S.C. 1746, asking for permission to prosecute without payment of fee of the application, petition, appeal, motion, or request, and stating his or her belief that he or she is entitled to or deserving of the benefit requested and the reasons for his or her inability to pay. The officer of the Service having jurisdiction to render a decision on the application, petition, appeal, motion, or request may, in his discretion, grant the waiver of fee. Fees for "Passenger Travel Reports via Sea and Air" and for special statistical tabulations may not be waived. The payment of the additional sum prescribed by section 245(i) of the Act when applying for adjustment of status under section 245 of the Act may not be waived. The payment of the additional \$500 fee prescribed by section 214(c)(9) of the Act when applying for petition for nonimmigrant worker under section 101(a)(15)(H)(i)(b) of the Act may not be waived. The fee for Form I-907, Request for Premium Processing Services, may not be waived.

(2) Fees under the Freedom of Information Act, as amended, may be waived or reduced where the Service determines such action would be in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(3) When the prescribed fee is for services to be performed by the clerk of court under section 344(a) of the Act, the affidavit for waiver of the fee shall be filed with the district director or officer in charge of the Service having administrative jurisdiction over the place in which the court is located at least 7 days prior to the date the fee is required to be paid. If the waiver is granted, there shall be delivered to the clerk of court by a Service representative on or before the date the fee is required to be paid, a notice prepared on Service letterhead and signed by the officer granting the waiver, that the

fee has been waived pursuant to this paragraph.

(4) Fees for applications for Temporary Protected Status may be waived pursuant to 8 CFR 1240.20.

(d) *Authority to certify records.* Whenever authorized under 5 U.S.C. 552 or any other law to furnish information from records to persons entitled thereto, the following officials, or their designees authorized in writing as specified below, have authority to make certification, as follows:

(1) The Associate Commissioner, Information Systems, the Assistant Commissioner, Records Systems Division, the Director, Records Management Branch, or their designee, authorized in writing to make certification in their absence—copies of files, documents, and records in the custody of the Central Office.

(2) A regional commissioner, or district director, or the designee of either, authorized in writing to make certification in his absence—copies of files, documents, and records in the custody of his office.

(3) The Immigration and Naturalization Service Program Coordinator, El Paso Intelligence Center, or the designee, authorized in writing to make certification in event of the Program Coordinator's absence—copies of files, documents, and records of the Immigration and Naturalization Service in the custody of that office.

(4) The Assistant Commissioner, Records Systems Division, the Director, Records Management Branch, or the Chief, Records Operations Section, Central Office, or their designee, authorized in writing to make certification in their absence—the non-existence of an official Service records.

[38 FR 35296, Dec. 27, 1973]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §1103.7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

## PART 1204—IMMIGRANT PETITIONS

AUTHORITY: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255, 1641; 8 CFR part 2.